

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

RYAN ANDERSON, et al.	)	
	)	
Plaintiffs,	)	
	)	
v.	)	17-cv-07691
	)	
FERRELL ROBINSON d/b/a F. J.	)	Honorable Judge Andrea R. Wood
ROBINSON'S CONTRACTING INC.	)	
and d/b/a F. J. ROBINSON	)	
CONTRACTING, INC.,	)	
Defendant.	)	

**PLAINTIFF'S MOTION TO COMPEL AUDIT**

Plaintiffs, through counsel, move this Court for an order compelling Defendant Ferrell Robinson to submit to an audit of his books and records by a date certain for the period January 1, 2013 through the present. In support of said motion, Plaintiffs state in support:

1. Plaintiffs, various ERISA employee benefit trusts and plans, and a Union (collectively "Funds"), sued Defendant under ERISA and the LMRA<sup>1</sup> to compel an audit for the period January 1, 2013 to the present and to collect the delinquent contributions owed to the Funds and dues and assessments owed to the Union as disclosed by the audit.

2. The applicable collective bargaining agreements ("CBAs") between the Painters District Council No. 30 of the International Union of Painters and Allied Trades, AFL-CIO ("Union"), the Northeast Illinois Chapter of the Painting and Decorating Contractors of America ("Association"), and various individual painting, decorating and taping contractors doing

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<sup>1</sup> The statutes are the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et al.*, and the Labor Management Relations Act, 29 U.S.C. § 141 *et seq.*

business within the jurisdiction of the Union bind signatory employers to the Funds' Trust Agreements and authorize Plaintiffs to audit the books and records of participating employers.

3. Defendant Ferrell Robinson is the sole proprietor of a business and has been a signatory to the applicable CBAs since at least November 2, 1998.

4. For more than one year prior to filing this lawsuit, the Funds attempted to obtain an audit of Defendant's books and records to verify the accuracy and completeness of the time worked by covered employees reported to the Funds, and the corresponding contributions paid to the Funds, but Defendant ignored the Funds' requests.

5. After the Complaint was filed, Defendant produced some the requested records to the Funds' auditor, but has refused to provide records essential to the audit, including:

- a. Wage and Tax Statements (IRS Form W-2) for all of Defendant's employees;
- b. Transmittal of Wage and Tax Statements (IRS Form W-3) for all of Defendant's employees;
- c. Defendant's Quarterly Federal Tax Returns (IRS Form 941);
- d. Illinois State Unemployment Compensation quarterly payroll tax returns;
- e. Defendant's cash disbursement journal and/or check register.

6. As a result of Defendant's refusal to produce these documents, Plaintiffs have been unable to complete the audit without court intervention.

7. In support of this Motion, Plaintiffs incorporate their Memorandum in Support of Motion to Compel Audit and Plaintiff's Exhibits in Support of Motion to Compel Audit, along with an Exhibit List, all of which are filed contemporaneously.

**WHEREFORE**, Plaintiffs respectfully request that the Court grant this motion and enter an order requiring Defendant Ferrell Robinson to submit to an audit for the period January 1,

2013 to the present and, no later than 14 days after the entry of the Court's Order, provide the Funds' auditor with all necessary information and documents, including:

- i. Wage and Tax Statements (IRS Form W-2) for all employees;
- ii. Transmittal of Wage and Tax Statements (IRS Form W-3) for all employees;
- iii. Federal quarterly payroll tax returns;
- iv. Illinois State Unemployment Compensation quarterly payroll tax returns; and
- v. Defendant's cash disbursement journal and/or check register.

Respectfully submitted,

/s/ Charles P. Burns

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**CERTIFICATE OF SERVICE**

I, Charles Burns, an attorney, certify that on June 13, 2018, I electronically filed the foregoing PLAINTIFF'S MOTION TO COMPEL AUDIT in the U.S. District Court for the Northern District of Illinois, Eastern Division, using the CM/ECF system, which shall provide notification by email of such filing to all counsel of record.

/s/ Charles P. Burns